

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ANDRE WINGO,

Plaintiff,

v.

Case No. 05-C-1334

MARK KLUCK, CHAD FREY,

SCOTT ZACK, and

CORNELIA THOMAS,

Defendants.

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**DECISION AND ORDER**

Plaintiff Andre Wingo filed this pro se civil rights complaint pursuant to 42 U.S.C. § 1983. On April 19, 2006, plaintiff's request for leave to proceed in forma pauperis was denied because he has accumulated three "strikes" and because he failed to satisfy the imminent danger exception to 28 U.S.C. § 1915(g). Consequently, plaintiff was ordered to forward to the clerk of court by May 19, 2006, the \$248.44 balance of the full filing fee. Plaintiff was advised that failure to pay the filing fee within the designated time would result in dismissal of plaintiff's action. To date, plaintiff has not paid the \$248.44 balance of the filing fee. Therefore, I will dismiss this case without prejudice.

Regardless, plaintiff is still obligated to pay the \$248.44 balance of the filing fee. Newlin v. Helman, 123 F.3d 429, 436-37 (7th Cir. 1997), overruled on other grounds by Walker v. O'Brien, 216 F.3d 626 (7th Cir. 2000) and Lee v. Clinton, 209 F.3d 1025 (7th Cir. 2000). Furthermore, plaintiff is hereby advised that any appeal of this order will obligate him to pay the \$455.00 appellate filing fee. Newlin, 123 F.3d at 436-37.

**NOW, THEREFORE, IT IS ORDERED** that the Clerk of Court enter judgment dismissing the plaintiff's claims and this action without prejudice.

**IT IS FURTHER ORDERED** that this dismissal will not be counted as a "strike" under 28 U.S.C. § 1915(g).

**IT IS FURTHER ORDERED** that the Secretary of the Wisconsin Department of Corrections or his designee shall collect from the plaintiff's prison trust account the \$248.44 balance of the filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the clerk of the court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

**IT IS ALSO ORDERED** that copies of this order be sent to the warden of the institution where the inmate is confined and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin, this 13 day of June, 2006.

BY THE COURT:

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/s  
LYNN ADELMAN  
District Judge